

WILLIAM CATO SELLS, JR.,)	3:08-CV-170-BES-RAM
)	
Plaintiff,)	
)	ORDER
v.)	
)	
E.K. MCDANIEL, <i>et al.</i> ,)	
)	
Defendants.)	

I. DISCUSSION

¹ For an objection to be timely, a party must serve and file it within 10 days after being served with the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C).

U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Id.* at 149. Similarly, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See United States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); see also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in Reyna-Tapia as adopting the view that district courts are not required to review “any issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then this Court may accept the recommendation without review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation to which no objection was filed).

In this case, defendants have not filed an objection to the Magistrate Judge’s Report and Recommendation. Although no objection was filed, this Court has reviewed the Report and Recommendation (#84), and accepts it. Accordingly,

IT IS HEREBY ORDERED that Defendants’ Motion for Summary Judgment (#46) is GRANTED in part and DENIED in part as follows:

1. Counts I and III through XVI should be DISMISSED;
2. The federal claims against Defendants in their official capacities for money damages in Count II should be DISMISSED; and
3. The motion for summary judgment on Count II of the complaint should be DENIED.

The Clerk of the Court shall enter judgment accordingly.

IT IS SO ORDERED.

DATED: This 23 day of October, 2009.


 Robert C. Jones
 UNITED STATES DISTRICT JUDGE